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NO. 89-1249

Supreme Court, U.S.
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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1989

LOUIS VITALE AND GRACE VITALE

PETITIONERS,

v.

CITY OF NEW HAVEN, PETER DURANTE, LOUIS DANIELS, JOSEPH TOSCANO, EILEEN I. RUOTOLO AND EARL I. WILLIAMS

RESPONDENTS,

REPLY TO BRIEF OF RESPONDENTS, JOSEPH TOSCANO AND EILEEN I. RUOTOLO, IN OPPOSITION TO THE PETITION FOR WRIT CERTIORARI

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REPLY TO BRIEF OF RESPONENTS JOSEPH TOSCANO AND EILEEN RUOTOLO IN GRANTING TO THE PETITION FOR WRIT OF CERTIORARI

Pursuant to the Rules of the Supreme Court of the United States, adopted December 5, 1989, effective January 1, 1990, Part III. JURISDICTION ON WRIT OF CERTIORARI, Rule 10, CONSIDERATIONS GOVERNING REVIEW ON WRIT OF CERTIORARI indicate the character of reasons that will be considered:

1.(a) When a United States court of appeals has rendered a decision in conflict with the decision of another United States court of appeals on the same matter; or decided a federal question in a way in conflict with a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, as to call for an exercise of this Court's power of supervision.

(c) When a state court or a United States court of appeals has decided an important question of federal law which has not been, but should be, settled by this Court, or has decided a federal question in a way that conflicts with applicable decisions of this Court.

The gravamen in determing the granting of a writ of certiorari when the United States

District Court and the United States Court of Appeals for the Second Circuit has decided a federal question in a way that conflicts with applicable decisions of this court.

The lower courts have decided federal questions in a way that conflicts with applicable decisions of this Court when they dismissed the petitioners' complaint on the statute of limitation, fail to state a claim upon which relief can be granted and under the immunities by the Eleventh Amendment to the United States Constitution.

REASONS FOR GRANTING THE PETITION

I. The federal questions herein have been decided below in a way which is not in accord with the applicable decisions of this Court.

A. With the "Sovereign Immunity" of the State of Connecticut under the Eleventh Amendment.

That the lower courts decisions petitioners are barred by the Eleventh Amendment, as they were sued solely in their official capacities, is in conflict with the amended complaint. (Pet. Br. First Count, paras. 5,6,8, p-15).

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1. References to Petitioners' Brief will be noted by the sign "Pet. Br."

It is also in conflict with Civil Rights Act Title 42 U.S.C., §§ 1983, 1985(2,3) and 1986 enacted by Congress and the Supreme Court decisions lowering centuries-old "Sovereign Immunity" barrier to enforce civil rights violations against state and municipal employees or agents. (Pet.Br. pp-15-16).

B. Failure to state a claim

1. Petitioner Grace Vitale

The lower courts dismissed the petitioners' complaint without addressing her claims for mental and emotional stress caused by the intentional infliction of punishment of my husband without probable cause which is conflict with § 1983 which Congress passed to compensate persons injured by the deprivation of a constitutional rights. The Supreme Court also stated that compensation, exemplary and punitive damages. (Pet.Br.pps.-16-18).

2. Petitioner Louis Vitale

The lower courts dismiss petitioners' complaint because I fail to state a claim which relief can be grant for false arrest, false imprisonment and malicious prosecution against

respondents Durante, Daniels, Toscano and Ruotolo in a way that is in conflict with the statory law of forgery and statue of limitation, within the United States and Appeals circuit courts and this court. It also criticize the petitioners' complaint as a "hodgepodge of v vague and conclusory allegations" which many of the paragraphs are required and necessary for the complaint to be viable for a claim for for damages under § 1983. These necessary paragraphs was taken from the form books. (Pet.Br. pps-19-23).

3. Conspiracy

The lower courts has rendered a decision which conflicts within other appeals court alleging that complaint fail to allege sufficient over acts for a conspiracy. (Pet.Br. pps.-24-25).

4. Title 42 U.S.C. § 1983

Since the judgment below was premised on Fed. R.Civ.P. overly restricted reading of the complaint as narrowly as possible and drew every inferences adverse to the petitioners is in conflict with applicable decisions of the

Supreme Court for the following reasons; a) less strigent standard, b) protect important rights and c) liberally and favorably for the petitioners. (Pet.Br.p-25).

The lower courts dismiss the petitioners' complaint against respondent Earl I. Williams for failure to attribute and interwine his action with the state and "in their capacity as representatives of clients in court, private counsel do not act under color of state law within the meaning of the Civil Rights Act", is in conflict with applicable decisions of this Court. (Pet. Br. pps.-26-29).

Finally, the Appeals Court did not support their decision dismissing the petitioners' complain contained in the footenote is in conflict with applicable decisions in this court as to due process and equal protection of the law under the fourteenth Amendment. (Pet. Br. p.-30).

Repectfully submitted,

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